

## EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93-133, set out a note under section 951 of this title.

**§ 959. Administrative provisions****(a) General authority of Chairpersons**

In addition to any authorities vested in them by other provisions of this subchapter, the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as the Chairperson deems necessary governing the manner in which the Chairperson's functions shall be carried out;

(2) in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of \$15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title;

(3) to appoint employees, subject to the civil service laws, as necessary to carry out the Chairperson's functions, define their duties, and supervise and direct their activities;

(4) to utilize experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title 5;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5 for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to section 3324 of title 31;

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

**(b) Rules for distribution of donations, bequests, and devises; gifts with or without conditions; transfers for tax purposes**

(1) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation without designation of the Endowment for the benefit of which such property is intended, and without condition or restriction other than that it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in

equal shares to each Endowment and each Chairperson of an Endowment shall have authority to receive such property.

(2) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property.

(3) For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised.

(4) For the purposes of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

**(c) Advisory panels; membership; procedures**

The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 955(f) of this title. When reviewing applications, such panels shall recommend applications for projects, productions, and workshops solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures—

(1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;

(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;

(4) to require panels—

(A) to create written records summarizing—

(i) all meetings and discussions of such panel; and

(ii) the recommendations made by such panel to the Council; and

(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and

(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this subchapter, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

**(d) Endowment activities reports**

The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.

**(e) Council activities reports**

The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

**(f) Post-award evaluation of assisted projects, productions, and programs; reports; extension of time for compliance; failure to satisfy purposes of assistance**

(1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, productions, and programs for which financial assistance is provided by their respective Endowments under sections 954(c) and 956(c) of this title. Such evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

(2)(A) The recipient of financial assistance provided by either of the Endowments shall submit to the Chairperson of the Endowment involved—

(i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;

(ii) a report describing the project, production, or program carried out with such financial assistance; and

(iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.

(B) Such recipient shall comply with the requirements of this paragraph not later than 90 days after the end of the period for which such financial assistance is provided. The Chairperson may extend the 90-day period only if the recipient shows good cause why such an extension should be granted.

(3) If such recipient substantially fails to satisfy the purposes for which such financial assistance is provided and the criteria specified in subsection (c)(3)(A),<sup>1</sup> as determined by the Chairperson of the Endowment that provided such financial assistance, then such Chairperson may—

(A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;

(B) prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment that provided such financial assistance; and

(C) if such project, production, or program is published, require that the publication contain the following statement: “The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts or the National Endowment for the Humanities.”

(Pub. L. 89-209, § 10, Sept. 29, 1965, 79 Stat. 852; Pub. L. 90-348, § 5, June 18, 1968, 82 Stat. 186; Pub. L. 91-346, §§ 5(a)(3), 10, 11, July 20, 1970, 84 Stat. 443, 446; Pub. L. 93-133, § 2(a)(9), (10), Oct. 19, 1973, 87 Stat. 465; Pub. L. 96-496, title I, § 107, Dec. 4, 1980, 94 Stat. 2588; renumbered title I, § 10, Pub. L. 98-306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 10 and amended Pub. L. 99-194, title I, §§ 101(1), 110, Dec. 20, 1985, 99 Stat. 1332, 1339; Pub. L. 101-512, title III, § 318 [title I, § 109], Nov. 5, 1990, 104 Stat. 1960, 1970.)

CODIFICATION

In subsec. (a)(5), reference to “section 5703 of title 5” substituted for “law (5 U.S.C. 73b-2)” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-512, § 318 [title I, § 109(5)(A)], redesignated concluding provisions of subsec. (a) as subsec. (b).

Subsec. (a)(4). Pub. L. 101-512, § 318 [title I, § 109(1)(A)], struck out “from time to time, as appropriate,” after “to utilize”.

Subsec. (a)(6). Pub. L. 101-512, § 318 [title I, § 109(1)(B)], substituted “section 3324 of title 31” for “the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)”.

<sup>1</sup> So in original. Subsec. (c)(3) does not contain a subpar. (A).

Subsec. (b). Pub. L. 101-512, §318 [title I, §109(9)], which directed amendment of this section by striking the sixth sentence and all that follows through “pending.” was executed by striking all that follows through “pending.” the second place it appeared to reflect the probable intent of Congress. The provisions struck out read as follows: “In selecting panels of experts under clause (4) to review and make recommendations with respect to the approval of applications for financial assistance under this subchapter, each Chairperson shall appoint individuals who have exhibited expertise and leadership in the field under review, who broadly represent diverse characteristics in terms of aesthetic or humanistic perspective, and geographical factors, and who broadly represent cultural diversity. Each Chairperson shall assure that the membership of panels changes substantially from year to year, and that no more than 20 per centum of the annual appointments shall be for service beyond the limit of three consecutive years on a subpanel. In making appointments, each Chairperson shall give due regard to the need for experienced as well as new members on each panel. Panels of experts appointed to review or make recommendations with respect to the approval of applications or projects for funding by the National Endowment for the Arts shall, when reviewing such applications and projects, recommend for funding only applications and projects that in the context in which they are presented, in the experts’ view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural, or artistic merit. Whenever there is pending an application submitted by an individual for financial assistance under section 954(c) of this title, such individual may not serve as a member of any subpanel (or panel where a subpanel does not exist) before which such application is pending. The prohibition described in the previous sentence shall commence on the date the application is submitted and continue for so long as the application is pending.”

Pub. L. 101-512, §318 [title I, §109(8)], which directed amendment of the fifth sentence of this section by making the substitution for “For the purpose”, was executed by substituting “(4) For the purposes” for “For the purposes” to reflect the probable intent of Congress.

Pub. L. 101-512, §318 [title I, §109(4)-(7)], redesignated concluding provisions of subsec. (a) as subsec. (b), inserted pars. (1), (2), and (3) designations, and struck out “(A)” before “without designation” and “(B)” before “without condition”. Former subsec. (b) redesignated (d).

Subsecs. (c) to (e). Pub. L. 101-512, §318 [title I, §109(3), (4), (9)], added subsec. (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and struck out former subsec. (e) which related to studies and reports on the state and quality of arts and humanities education in public elementary and secondary schools. Former subsec. (d) redesignated (f).

Subsec. (f). Pub. L. 101-512, §318 [title I, §109(2)-(4)], redesignated subsec. (d) as (f) and, in par. (3), substituted “subsection (c)(3)(A)” for “the last sentence of subsection (a)”, and struck out former subsec. (f) which related to report to Congress on selection of experts for appointment to panels, and procedures for recommendations on financial assistance applications.

1985—Subsec. (a). Pub. L. 99-194, §110(1), substituted “Chairperson” for “Chairman” in two places in provisions preceding cl. (1); in cl. (1) substituted “the chairperson” and “the chairpersons” for “he” and “his”, respectively; in cl. (2) substituted “Chairperson” for “Chairman” wherever appearing; in cl. (3) substituted “the Chairpersons” for “his”; in cl. (4) substituted “section 3109 of title 5” for “section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a)” and struck out proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding was to have broad geographic and culturally diverse representation; and in provisions following par. (8) substituted “Chairperson” for “Chairman” wherever

appearing and inserted provisions relating to the selection of a panel of experts to review financial assistance applications and the considerations to be made in the review of such applications.

Subsec. (b). Pub. L. 99-194, §110(2), substituted “Chairperson” for “Chairman” wherever appearing.

Subsecs. (d) to (f). Pub. L. 99-194, §110(3), added subsecs. (d) to (f). Former subsec. (d), relating to studies and reports to the President and the Congress on endowment uses of donations, bequests, and devises, was struck out.

1980—Subsec. (a)(4). Pub. L. 96-496, §107(a), inserted “and culturally diverse”.

Subsecs. (b), (c). Pub. L. 96-496, §107(b), (c), substituted “April” for “January”.

Subsec. (d). Pub. L. 96-496, §107(d), added subsec. (d). 1973—Subsec. (a)(2). Pub. L. 93-133, §2(a)(9), added exception that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of \$15,000 or less without Council recommendation when the Council fails to recommend within a reasonable period of time.

Subsec. (a)(4). Pub. L. 93-133, §2(a)(10), inserted proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic representation.

1970—Subsec. (a)(2). Pub. L. 91-346, §5(a)(3), struck out reference to the functions transferred by section 955(a) of this title.

Subsec. (a)(3) to (5). Pub. L. 91-346, §11(1)-(3), inserted “to” at beginning of cls. (3) to (5).

Subsec. (a)(6) to (8). Pub. L. 91-346, §§10, 11(4), (5), redesignated cls. (6) and (7), and all references thereto, as cls. (7) and (8), added new cl. (6), and inserted “to” at beginning of cls. (7) and (8).

1968—Subsec. (a). Pub. L. 90-348 combined provisions of cls. (2) and (3) into cl. (2), and, in cl. (2) as thus combined, extended the area for the exercise of discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that Endowment, in the disposition of gifts to include both gifts made with condition and gifts made without condition, redesignated cls. (4) to (8) as (3) to (7), and in provisions following cl. (7), struck out references to cls. (2) and (3) wherever appearing.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101-512, set out as a note under section 951 of this title.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93-133, set out as a note under section 951 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(3) of Pub. L. 91-346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91-346, set out as a note under section 955 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which certain reporting requirements under subsec. (d) of this section are listed in item 7 on page 183), see section 3003 of Pub. L. 104-66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106-554, set out as notes under section 1113 of Title 31, Money and Finance.

#### DELEGATION OF CERTAIN REPORTING AUTHORITY

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74937, provided:

Memorandum for the Chairperson of the National Endowment for the Arts

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President in the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(d)) to provide the specified report relating to the National Endowment for the Arts to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74939, provided:

Memorandum for the Chairperson of the National Endowment for the Humanities

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President in the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(d)) to provide the specified report relating to the National Endowment for the Humanities to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

#### § 959a. Gifts, bequests, and devises

The National Endowment for the Arts and the National Endowment for the Humanities are on and after August 2, 2005, authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

(Pub. L. 109-54, title IV, §410, Aug. 2, 2005, 119 Stat. 551.)

#### CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108-447, div. E, title III, §310, Dec. 8, 2004, 118 Stat. 3094.

Pub. L. 108-108, title III, §310, Nov. 10, 2003, 117 Stat. 1303.

Pub. L. 108-7, div. F, title III, §310, Feb. 20, 2003, 117 Stat. 271.

Pub. L. 107-63, title III, §315, Nov. 5, 2001, 115 Stat. 467.

Pub. L. 106-291, title III, §318, Oct. 11, 2000, 114 Stat. 989.

Pub. L. 106-113, div. B, §1000(a)(3) [title III, §319], Nov. 29, 1999, 113 Stat. 1535, 1501A-193.

Pub. L. 105-277, div. A, §101(e) [title III, §320], Oct. 21, 1998, 112 Stat. 2681-231, 2681-289.

Pub. L. 105-83, title III, §330, Nov. 14, 1997, 111 Stat. 1600.

#### § 960. Authorization of appropriations

##### (a) Contracts, grants-in-aid, and loans to groups, individuals, public agencies, and private nonprofit organizations; availability of appropriations; guidelines

(1)(A)(i) For the purpose of carrying out section 954(c) of this title, there are authorized to be appropriated to the National Endowment for the Arts \$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(ii) For fiscal years—

(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 954(g) of this title.

(iii) For fiscal years—

(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 954(p)(2) of this title (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.

(B) For the purpose of carrying out section 956(c) of this title, there are authorized to be appropriated to the National Endowment for the Humanities \$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 956(f) of this title.

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (10) of section 954(c) of this title;

except that the amounts so appropriated to the National Endowment for the Arts shall not exceed \$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees and subgrantees of such Endowment from